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COMMISSIONERS
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BOB STUMP
SANDRA D. KENNEDY
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BRENDA BURNS



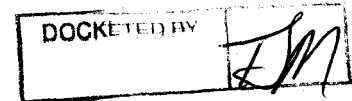
ARIZONA CORPORATION COMMISSION

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DATE: SEPTEMBER 4, 2012

DOCKET NOS.: W-01445A-05-0701

TO ALL PARTIES:



Enclosed please find the recommendation of Administrative Law Judge Yvette B. Kinsey. The recommendation has been filed in the form of an Order on:

**ARIZONA WATER COMPANY
(EXTENSION OF TIME DEADLINE
CONTAINED IN DECISION NOS. 68919, 70527, AND 71708)**

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by **4:00** p.m. on or before:

SEPTEMBER 13, 2012

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Open Meeting to be held on:

SEPTEMBER 19, 2012 AND SEPTEMBER 20, 2012

For more information, you may contact Docket Control at (602) 542-3477 or the Hearing Division at (602)542-4250. For information about the Open Meeting, contact the Executive Director's Office at (602) 542-3931.


ERNEST G. JOHNSON
EXECUTIVE DIRECTOR

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 **COMMISSIONERS**

3 GARY PIERCE, Chairman
4 BOB STUMP
5 SANDRA D. KENNEDY
6 PAUL NEWMAN
7 BRENDA BURNS

8 IN THE MATTER OF THE APPLICATION
9 OF ARIZONA WATER COMPANY, AN
10 ARIZONA CORPORATION TO EXTEND ITS
11 CERTIFICATE OF CONVENIENCE AND
12 NECESSITY FOR ITS SUPERSTITION
13 SYSTEM, PINAL COUNTY, ARIZONA.

DOCKET NO. W-01445A-05-0701

DECISION NO. _____

ORDER EXTENDING TIME
DEADLINE IN DECISION NOS.
68919, 70527, AND 71708

11 Open Meeting
12 September 19 and 20, 2012
13 Phoenix, Arizona

14 **BY THE COMMISSION:**

15 * * * * *

16 Having considered the entire record herein and being fully advised in the premises, the
17 Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

18 **FINDINGS OF FACT**

19 1. On August 29, 2006, the Commission issued Decision No. 68919, which granted
20 Arizona Water Company ("AWC") an extension of its Certificate of Convenience and Necessity
21 ("CC&N") for its Superstition system in Pinal County, Arizona.

22 2. Decision No. 68919 required AWC to file, among other things, the following
23 compliance items:

24 a. A Notice of filing indicating AWC had submitted for Staff's review and
25 approval, a copy of the fully executed main extension agreements ("MXAs") for water
26 facilities for the requested extension areas within two years of the effective date of the
27 Decision.

28 b. A copy of the Arizona Department of Environmental Quality's Approval to
Construct ("ATC") for facilities needed to serve the requested extension areas within
two years of the effective date of the Decision.

c. A copy of the developer's Certificate of Assured Water Supply ("CAWS") for
the requested transfer areas where applicable or when required by statute, within two
years of the effective date of the Decision.

1 3. On June 27, 2008, AWC filed a request for additional time, until August 29, 2010, to
2 meet the above-listed compliance items. In support of its request, AWC submitted a letter from the
3 developer in the extension area, Ecco Holdings, LLC, confirming a desire to develop the area in the
4 future and confirming a desire to have AWC as the water provider for the extension area.

5 4. On September 30, 2008, the Commission issued Decision No. 70527 approving AWC's
6 request for an extension of time, until August 29, 2010, to comply with Decision No. 68919.

7 5. On January 6, 2010, AWC filed a second request for an extension of time to comply
8 with Decision No. 68919. AWC's second request stated that due to a downturn in the housing market
9 and the deep economic recession the Pinal County housing market had come to a halt and that AWC
10 needed additional time to meet the compliance deadlines.

11 6. On June 3, 2010, the Commission issued Decision No. 71708, approving AWC's
12 request for an extension of time, until August 29, 2012, to comply with Decision No. 68919.

13 7. On August 3, 2012, AWC filed its third request for an extension of time to comply with
14 Decision No. 68919. AWC's third request seeks an extension of the compliance deadlines until
15 August 29, 2014. AWC states that due to the deep recession and real estate crash additional time is
16 needed for AWC to comply. AWC included with its request a map of the extension area; a Physical
17 Availability Determination ("PAD") approved by ADWR (which AWC states meets the requirements
18 of a CAWS); and a letter from the property owner or property owner's representative for the
19 extension area stating there is a continuing need for AWC to provide service in the extension area in
20 the future.

21 8. On August 20, 2012, the Commission's Utilities Division ("Staff") filed a
22 Memorandum in response to AWC's request for an extension of time to comply with Decision No.
23 68919. Staff states that it does not object to AWC's request for an extension of the compliance
24 deadlines; however, Staff does not accept the PAD as compliance with the Decision's requirement
25 that AWC file a CAWS. Staff concludes that AWC has not complied with the CAWS requirement in
26 Decision No. 68919 and that AWC's request should include an extension of the compliance deadline
27 to obtain a CAWS. Therefore, Staff does not object to AWC's request for an extension of time, until
28

1 August 29, 2014, to comply with the MXA, ATC, and CAWS requirements outlined in Decision No.
2 68919. Staff recommends that no further time extensions be granted in this matter.

3 9. AWC has filed a timely request for an extension of the deadlines to obtain the MXA,
4 ATC, and CAWS as required in Decision No. 68919. Based on the developer/property owner's letter
5 demonstrating a continuing need for service in the extension area from AWC; and AWC's stated
6 effect of the economy on development in the extension area, we find that AWC's request for an
7 extension of time to comply with Decision No. 68919 is reasonable and should be granted.

8 10. Further, although we are not adopting Staff's recommendation that no further time
9 extensions should be granted for compliance with Decision No. 68919, we will put AWC on notice
10 that any further requests for an extension of time to comply must demonstrate that extraordinary
11 circumstances exist that warrant additional time.

12 CONCLUSIONS OF LAW

13 1. AWC is a public service corporation within the meaning of Article XV of the Arizona
14 Constitution and A.R.S. §§ 40-281 and 40-282.

15 2. The Commission has jurisdiction over AWC and the subject matter of this proceeding.

16 3. It is reasonable and in the public interest to grant AWC's request for a time extension
17 to comply with Decision No. 68919.

18 ORDER

19 IT IS THEREFORE ORDERED that Arizona Water Company is hereby granted an extension
20 of time, until August 29, 2014, to comply with Decision No. 68919 by filing a copy of a fully
21 executed main extension agreement for water facilities needed for the extension area; a copy of the
22 Arizona Department of Environmental Quality Certificate of Approval to Construct for the facilities
23 needed for the extension area; and a copy of the developer's Certificate of Assured Water Supply,
24 where applicable or when required by statute.

25 ...

26 ...

27 ...

28 ...

1 IT IS FURTHER ORDERED that Arizona Water Company is hereby put on notice that no
2 additional extensions of time shall be granted regarding this matter absent extraordinary
3 circumstances.

4 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

5 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.
6
7

8 CHAIRMAN _____ COMMISSIONER _____
9

10 COMMISSIONER _____ COMMISSIONER _____ COMMISSIONER _____
11

12 IN WITNESS WHEREOF, I, ERNEST G. JOHNSON,
13 Executive Director of the Arizona Corporation Commission,
14 have hereunto set my hand and caused the official seal of the
15 Commission to be affixed at the Capitol, in the City of Phoenix,
16 this _____ day of _____, 2012.

17 _____
18 ERNEST G. JOHNSON
19 EXECUTIVE DIRECTOR
20

21 DISSENT _____
22

23 DISSENT _____
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25
26
27
28

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